IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4519 of 2007()

CRIME NO.128 OF 2007, KURUPPAMPADI POLICE STATION

PETITIONER :

RATHEESH, S/O.KUNJU, MUTHAKKANAL VEEDU,
PULICKAPADI, KEEZHILLAM KARA, RAYAMANGALAM,

BY ADV. SRI.B.S.SURESH (CHIRAKKARA)

RESPONDENTS:

STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4519 OF 2007

Dated this the 27th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the de facto complainant. He faces allegations under Sec.498A of the IPC.

2. The de facto complainant is a young bride. The spouses started living together on 27/9/06. Later, the relative came round and the marriage was formally solemnised on 19/10/06. The young bride was allegedly subjected to inhuman cruelty while she was in the house of the petitioner. She suffered in silence as the choice was hers. The relatives ultimately come to know the sad plight of the de facto complainant. The truth came out ultimately. She was compelled to complain to her parents. Inhuman cruelty of unbelievable variety was allegedly inflicted on her. After marriage, he lost interest in her. He kept on complaining that

she was not beautiful enough and that she has not bought sufficient wealth. Hot iron was placed on her thighs and she suffered burn injuries. With cigarette bud she was burned and she bore marks on her cheek. Chilly powder was applied on her private parts. There is an allegation that the petitioner is indulging in organised crimes as a profession and has threatened the de facto complainant of dire consequences if she complains. She made herself scarce. She was residing with some relative. A complaint was filed before the Deputy Superintendent of Police and later a crime has been registered. The learned counsel for the petitioner submits that the allegations are totally false. The relatives are not well disposed of to the petitioner and that is why such false allegations are raised. The petitioner is also young. A lenient view may be taken and anticipatory bail may be granted to the petitioner, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that this case cannot be reckoned as ordinary cases under Sec.498A of the IPC which we usually come across where strain in matrimony persuades the bride to make exaggerated allegations. The telltale marks were available on the private parts of the victim which have seen by a woman Police Constable at the time of registering the crime and later by the Medical Officer to whom the girl was referred. The

petitioner may not be permitted himself to arm with an order of anticipatory bail, submits the learned Public Prosecutor. This is not a fit case where powers under Sec.438 of the Cr.P.C. can or ought to be invoked. The learned Public Prosecutor placed the Case Diary before me for my perusal. I have perused the Case Diary.

4. Having gone through the Case Diary, I find merit in the opposition by the learned Public Prosecutor. I am not at all persuaded to agree that this is a fit case where directions under Sec.438 of the Cr.P.C. can or deserve to be issued. This petition is, in these circumstances, dismissed. The petitioner must resort to the ordinary and normal procedure of surrendering before the Investigating Officer or the learned Magistrate having jurisdiction and then seek bail.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge